

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 6, 2000

D034578 Walter B., v. Superior Court of San Diego County/San Diego Co. Health and Human Service Agency

The petition is denied.

D033547 People v. Springfield

The petition for rehearing is denied.

D031370 Edmund H. Tucker v. J. W. Elliott, Inc., et al.

The judgment is affirmed. Nares, J., Benke, Acting P.J., McIntyre, J.

D033312 In re Jessica J.

The petition for rehearing is denied.

D033541 In re Cathy R.

The order is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D033621 In re Jeffrey W., a Juvenile

The juvenile court's judgment is affirmed. Huffman, J.; We Concur: Work, Acting P.J., Haller, J.

D034541 In re Breeanne H., a Juvenile

The appeal is dismissed. McIntyre, J.; We Concur: Work, Acting P.J., Benke, J.

D031363 In re the Marriage of Vasquez

The order as it relates to spousal support is reversed for lack of notice. The order as it relates to the \$250 is reversed for the failure to specify the reasons for the award. The portion of the award relating to seeking attorney fees for the bankruptcy proceedings is remanded to make proper findings as to whether the action is related and to consider the proper factors as to whether attorney fees and costs should be awarded. All other appealed portions of the award are affirmed. Connie to recover costs on appeal. O'Rourke, J.; We Concur: Work, J., Haller, J.

D029343 Abrams v. City of San Diego/Mesa Shopping Center East

The judgment is affirmed. Respondents are entitled to costs on appeal. McDonald, J.; We Concur: Work, Acting P.J., Haller, J.

D034769 In re Harper on Habeas Corpus

The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 6, 2000 (Continued)

D030861 A.L. Wisdom & Associates, Inc. v. New Hampshire Insurance Company
The petition for rehearing is denied.

D034955 In re Belton on Habeas Corpus
The petition is denied.

D035004 In re Funk on Habeas Corpus
The petition is denied.

**D035084 Baldwin Building Company et al. v. Superior Court of San Diego County/Bank of
America NT & SA**
The petition is denied.

D035073 In re Trevino on Habeas Corpus
The petition is denied.

D035128 William Joseph Baumer v. Superior Court County of San Diego/People
The petition is denied.

D035126 Floyd v. Superior Court County of San Diego/Abatti
The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 7, 2000

D035059 Banks v. Hill

Request for permission to appeal received by this court on February 29, 2000, is denied. (Code of Civ. Proc., section 391.7, subd.(b).) The motion for amicus curiae is denied. The appeal filed with the superior court on December 23, 1999, is dismissed.

D033138 People v. Turner

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Huffman, J.; We Concur: Kremer, P. J., Nares, J.

D035075 In re Barnett on Habeas Corpus

The petition is denied without prejudice to refiling after consideration by the superior court or submission of a copy of any order previously denying relief.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 8, 2000

D033708 In re the Marriage of Lindroth

Upon written stipulation filed by the parties to the appeal and cross-appeal, the appeal and cross-appeal are dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal and cross-appeal.

D031103 Phillips v. Metalogic S. aR.L. et al.

The petition for rehearing is denied. The request for publication of the opinion is denied.

D031018 Hautaluoma v. Chaker

The order is affirmed. Costs are awarded to respondent. McIntyre, J.; We Concur: Huffman, Acting P. J., McDonald, J.

D033179 Equity/Income Growth Fund, XIV et al., v. Klauber Wangenheim Co.

The judgment is affirmed. Respondent is entitled to costs on appeal. McDonald, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D034818 Shuttle v. Wachtler

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

**D035042 inVzn INTERNATIONAL, LLC. et al. v. Superior Court of San Diego
County/National Enterprises, Inc.**

The petition is denied.

D030744 People v. Gonzalez et al.

The judgments are reversed. Work, J.; We Concur: Kremer, P.J., McIntyre, J.

D033404 People v. Howe

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D033014 Ilko v. Todd

The order is reversed. Appellant to have costs on appeal. Work, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D033646 People v. Oglesby

We affirm the sentence, except that we remand the matter to permit the trial court to calculate any appropriate credits. Haller, J.; We Concur: Kremer, P.J., Benke, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 8, 2000 (Continued)

D033175 In re Gerard H., a Juvenile

The juvenile court's orders declaring Gerard a ward and conditioning probation on not associating with gang members are affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D034055 In re Amiee A. a Juvenile

Judgment affirmed. McDonald, J.; We Concur: Haller, Acting P.J, McIntyre, J.

D032325 People v. Sheppard

Judgment affirmed. Kremer, P.J.; We Concur: Benke, J., Haller, J.

D035040 In re Pratt on Habeas Corpus

The petition is denied.

D031814 Alabama Stud v. Cass

The request for publication of the opinion is denied.

D031814 Alabama Stud v. Cass

The petition for rehearing is denied.

D033756 In re Kenneth S., Juveniles

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J, McDonald, J.

D034338 In re the Marriage of Ashe

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 9, 2000

D033320 Ronald C. Thornburg v. Delores Provencio et al./William Rodgers Thornburg et al.
The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

D031903 People v. Brown
The judgment is affirmed. Kremer, P.J.; We Concur: Work, J., Huffman, J.

D031372 People v. Wilson
The judgment is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D035006 B. A. T. Industries P.L.C. v. Superior Court of San Diego County/Operating
Engineers Local 12 Health and Welfare Trust Fund**
The petition is denied.

D032078 Paige et al., v. City of San Diego/Villani
The petition for rehearing is denied.

D030674 In re Marriage of Kelly
The judgment is affirmed. The parties shall bear their own costs on appeal. Kremer, P.J.; We Concur: Work, J., Huffman, J.

D035160 Fleming v. Superior Court of Imperial County/People
The petition is denied.

D034128 People v. Castaneda
Judgments affirmed. Work, J.; We Concur: Kremer, P. J., O'Rourke, J.

**D034518 B.A.T. Industries P.L.C. v. Superior Court of San Diego County/U TU UTU Gwaitu
Paiute Tribe et al.,**
The petition is denied.

D033531 People v. Talley
Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Work, J.

D030202 Mark McDowell Corporation v. Collins General Contractors
Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 9, 2000 (Continued)

D034445 In re William H., a Juvenile

D034555 In re William H., a Juvenile

The appeals are dismissed. McIntyre, J.; We Concur: Work, Acting P.J., Benke, J.

D035179 Kraylen R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The notice of intent filed on March 3, 2000 by Kraylen Mark R. as to Kraylyn Kraynice R. is dismissed as untimely.

D034901 In re Perez on Habeas Corpus.

The petition is denied.

D035191 Liberty Mutual Insurance Company v. Superior Court of San Diego County/American States Insurance Company et al.

At the request of petitioner, the petition for writ of mandate is dismissed.

D034894 In re Ramsey on Habeas Corpus

The petition is denied.

D028750 People v. Helda Wilson

The petition for rehearing on the court's own motion is granted. Appellate Defenders, Inc. may file a supplemental brief on or before April 10, 2000. The people may file a response to the supplemental brief on or before May 10, 2000.

D034850 In re Villavicencio on Habeas Corpus

The petition is denied.

D033664 Joseph Lopez v. Tom Adler et al.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

D033130 People v. Kwizera

The opinion filed February 9, 2000, is ordered certified for publication.

D033985 Shaw-Ring v. Village Square Shopping Center

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 10, 2000

D033925 Legion for the Survival of Freedom, Inc. v. Carto et al.

This court's bankruptcy stay order of August 20, 1999, is vacated. Respondent's unopposed motion to dismiss the appeal is granted. The appeal is dismissed.

D033165 People v. Sua

Without determining the question of jurisdiction, the court exercises its discretion and grants the respondent's motion to dismiss. The appeal is dismissed.

D033059 People v. Howard

Judgment affirmed. Kremer, P.J.; We Concur: Benke, J., McIntyre, J.

D035085 In re Powers on Habeas Corpus

The petition for reconsideration is denied.

D032133 Ortiz Corporation v. City of Chula Vista, et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D033327 People v. Rodriguez

The judgment is affirmed. Kremer, P. J., We Concur: Work, J., Huffman, J.

D035057 Wells Fargo Bank v. Superior Court of San Diego County/Oberle

The petition is denied.

D031867 People v. Jennings

The judgment is modified by staying the sentence for count six and striking the one-year terms imposed for the section 667.9 enhancements for counts five and six. The trial court is directed to modify the abstract of judgment accordingly and forward it to the Department of Corrections. As modified, the judgment is affirmed. O'Rourke, J., We Concur: Haller, Acting P. J., McDonald, J.

D035194 In re Moses R., a juvenile

The appeal filed on March 2, 2000 by Kraylen Mark R. is dismissed as untimely.

D032445 Shannon Packaging Company Services, Inc. v. Levovitz

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed without costs to either party. The remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 10, 2000 (Continued)

D035078 In re Foster on Habeas Corpus

The petition is denied.

D034441 People v. Fletcher

Appellant's unopposed motion to consolidate the above-entitled appeal with D034446 is granted. All documents will be filed under D034441. Appellant's opening brief is due 30 days from the date of this order.

D034861 De Bartolo v. Wells Fargo Bank

The unopposed motion to dismiss D034861, De Bartolo v. Wells Fargo Bank is granted as it seeks the same review as D033494, De Bartolo v. Wells Fargo Bank, which has already been considered and decided.

D035039 Harry Strauss v. Marriott International, Inc.

Pursuant to California Rules of Court, rule 10(c), the appeal filed January 7, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

D035134 In re Consiglio on Habeas Corpus

The petition is denied.

D032091 Kimble v. Abdullah

Order affirmed. Each party to bear its own costs of appeal. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D034021 Joesphs v. Unemployment Insurance Appeals Board/Pacific Bell

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., O'Rourke, J.

D033919 In re Nikita H. et al., a Juvenile

The orders are affirmed. McIntyre, J.; We Concur: Work, Acting P.J., Haller, J.

D034996 People v. Pham

This court has received a copy of defendant's 2nd Amended Notice of Appeal showing the appeal is based on the sentence or other matters occurring after the plea. This court's order of February 29, 2000, dismissing the appeal is vacated and the appeal is reinstated. Rule time for the preparation of the record on appeal shall run from the date of this order.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 10, 2000 (Continued)

D031660 City of National City et al. v. State of California State Water Resources Control Board

D0032097 City of National City et al. v. State of California State Water Resources Control Board/County of San Diego et al.

(consolidated) The judgment against the City and the CDC is affirmed. The judgment against the County is reversed and the matter is remanded to the superior court, which is directed to enter a new judgment granting the County's petition for writ of mandamus and to issue a writ of mandate in accordance with this opinion. The County is to recover its costs of appeal from the State Board and the State Board shall recover its costs of responding to the appeals by the City and the CDC from those agencies, respectively. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D031926 People v. Monzeglio

The judgment is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Huffman, J.

D032805 People v. Morgans

The superior court is directed to strike the prison priors alleged under section 667.5, subd. (b), to amend the abstract of judgment accordingly and to send an amended abstract to the Department of Corrections. In all other respects the judgment is affirmed. Huffman, J.; We Concur: Work, Acting P.J., McDonald, J.

D030621 Stern et al. v. Higgs et al.

The petition for rehearing is denied.

D035223 Sandoval v. Superior Court of Imperial County/People

The petition is denied.